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BY ECF

The Honorable Margo K. Brodie
United States District Court
Eastern District of New York
225 Cadman Plaza East
Brooklyn, NY 11201

*Re: Federal Defenders of New York, Inc. v. Federal Bureau of Prisons, et al., No. 19
Civ. 660 (E.D.N.Y.)*

Dear Judge Brodie:

We write on behalf of the Federal Defenders to update the Court on the serious difficulties inmates held in medical isolation at the Metropolitan Detention Center (“MDC”) are continuing to have accessing their attorneys. This issue was discussed at length at the most recent court conference, where Your Honor noted that the BOP needs “to avoid this issue from happening in the future,” and emphasized later in the conference: “again, it needs to be reiterated to [staff members] that these inmates are entitled to their legal calls and must be allowed to place their calls, even though they’re in medical isolation.” Apr. 24 Tr. at 29–31. The Court could not have been clearer: “Even if it’s an isolated incident, it should not be happening at all.” Apr. 24 Tr. at 32.

It is, therefore, extremely troubling that Defendants have continued to restrict inmates in medical isolation at the MDC from speaking with their attorneys. Notwithstanding repeated representations that there is no policy of restricting legal calls for inmates in medical isolation, yesterday, an MDC staff member informed the Federal Defenders that a call with a client housed at the MDC could not take place “because that inmate is in isolation.” Indeed, of the four legal calls scheduled yesterday with inmates held on the medical isolation unit at the MDC, only one call actually took place.¹

¹ And that singular call did not come easily. As noted, the MDC staff member first claimed that the call could not proceed because the inmate was in isolation. After a Federal Defenders employee reminded the staff member that the court had ordered the call to occur, the staff member hung up the phone without confirming whether the call would take place. It was only later in the day—without any notice—that an MDC staff member called the Federal Defenders’ office to say that their client was then available for a call.

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We have notified the mediator and Seth Eichenholtz, Deputy Chief of the Civil Division (EDNY), of our continuing concern with this issue. Mr. Eichenholtz has informed us that he is looking into the issue, and has thus far discovered that one of the inmates in medical isolation with whom a call was scheduled was moved off the medical isolation unit around 11 AM yesterday, which he believes may have contributed to the call not being placed. We are waiting to hear back from him as to the restriction of legal calls for the other inmates in medical isolation.

We wanted to inform the Court of this issue immediately, because whatever the reason, we respectfully request that the BOP be instructed that such calls are mandatory, and if there is a particular reason why a call with an inmate in medical isolation cannot be placed on a particular day, the BOP should immediately inform counsel for the inmate of that, and reschedule the call, not simply choose not to place the call.

Respectfully submitted,

/s/ Sean Hecker

Sean Hecker

cc: Counsel of Record (by ECF)
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